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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

No. 1299

EDNA MAE BOOKER,
PETITIONER,

vs.

THE STATE OF KANSAS,
RESPONDENT.

SUPPLEMENT TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF KANSAS.

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Attorneys for Petitioner

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SUPPLEMENT TO PETITION FOR WRIT OF CERTIORARI

To the Supreme Court of Kansas:

This Supplement is filed herein pursuant to provisions of Rule No. 22, Paragraph 1 and Rule No. 24, Paragraph 5, of the Rules of this Court respectfully applying to the Court for an extension of time to file Petition for Writ of Certiorari to and including April 18, 1968. This Court's jurisdiction is based upon 28 U.S.C. 1257 (3).

This Supplement is necessitated by virtue of the fact that upon the filing of the original Petition which was filed in the Court on April 8, 1968, the question arose with regard to whether or not the Petition was timely filed pursuant to Rule No. 22 (1).

Petitioner shows to the Court that the date of the opinion of the Supreme Court of the State of Kansas was January 5, 1968, but that said opinion, together with the mandate of the court, was not filed in the office of the Clerk of the District Court of Sedgwick County, Kansas, until the date of January 8, 1968. The Clerk of this Court was of the opinion that the 90 days allowed herein for a Petition of Certiorari commenced to run on January 6, 1958, and it was and is the opinion of counsel for Petitioner that the time did not commence to run until January 9, 1968. If the computation of the Clerk is correct and the computation should have started on January 6, 1968, then the Petition herein should have been filed on the 5th of April, 1968, which in this year, was a Friday. If counsel's computation is correct, then the Petition should have been filed on the 7th of April, 1968, which in this year, was a Sunday. The Petition was, in fact, filed on April the 8th so that from a business-day standpoint even if counsel was in error, the error was of one business-day only because of the intervening weekend.

In support of counsel's position and on behalf of Petitioner herein, counsel would cite to this Court, Kansas Statutes Annotated Section 62-1716 which is as follows:

> The appellate court may reverse, affirm or modify the judgment appealed from, and may if necessary or proper order a new trial. *In either case, the cause must be remanded to the court below with proper instructions, and the opinion of the court, within the time and in the manner to be prescribed by rule of the court.* (Emphasis supplied)

It is believed by counsel that the fact that the statutory provisions of the State of Kansas require that this opinion must be remanded and filed with the clerk of the trial court has the effect of making the date in which the remand and opinion of the Court are filed in the trial court the effective date of the entry of judgment.

Reproduced herein and designated as Supplement Appendix F is the mandate of the Supreme Court of the State of Kansas showing clearly that the filing date of said mandate in the District Court of Sedgwick County, Kansas, was January 8, 1968. The original of this document together with Act of Congress certification by the Clerk of the District Court and one of the judges of the 18th Judicial District of the State of Kansas is being filed herewith.

Petitioner herein is a colored lady and the mother of four minor children who live with her. She stands presently convicted of the crime of first-degree manslaughter under the laws of the State of Kansas. The question presented to this Court is whether or not the doctrine of acquittal by implicated as promulgated by this court in *Green vs. United States,* (1957), 355, U. S. 184, 2L. Ed. 2d 199, 78 S. Ct. 221, 61 A.L.R. 2d 1119, is applicable to proceedings of state courts. As a consequence, it clearly appears that a substantial question of considerable merit is here involved and one which has not heretofore been decided by this Court for the guidance of the judicial systems of the respective states of this nation and which could and should now be settled by this Court.

It is the view of counsel herein that this case ought now to be decided by this Court and that if counsel was in error in the computation of time with which the original Petition herein ought to have been filed then this Court could well justify waiving such error and certainly no prejudice can result to the state of Kansas from such an extension.

Wherefore, it is respectfully requested that the time within which to Petition for Writ of Certiorari in this matter be extended to the date of the filing of this supplement herein which is April 18, 1968.

Russell Shultz
Larry Kirby
Attorneys for Petitioner

APPENDIX F

IN THE DISTRICT COURT OF
SEDGWICK COUNTY, KANSAS.

ACT OF CONGRESS
CLERK'S CERTIFICATE

STATE OF KANSAS, } ss.
SEDGWICK COUNTY, }

I, Dorothy I. Van Arsdale the undersigned clerk of the District Court of Sedgwick County, Kansas, hereby certify that the within is a true and correct copy of the Mandate From the Supreme Court & Syllabus, in case No. CR-1740 which was filed in the office of the District Court

of Sedgwick County, Kansas, on the 8th day of January, 1968

WITNESS, my hand at Wichita, Sedgwick County, Kansas, this 8th day of April, 1968

Dorothy I. Van Arsdale
Clerk of the District Court
of Sedgwick County, Kansas

STATE OF KANSAS,
COUNTY OF SEDGWICK, } ss.

I, Dorothy I. Van Arsdale Clerk of the Sedgwick County District Court in and for said County, composing the 18th Judicial District in the State of Kansas, do hereby certify that Howard C. Kline whose genuine signature is affixed to the foregoing Certificate, is, and was at the time of signing said Certificate, one of the Judges of the 18th Judicial District, duly elected and qualified, in accordance with the Laws of the State of Kansas.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of said Court, affixed at Wichita, this 8th day of April, A.D. 1968
(SEAL)

Dorothy I. Van Arsdale, Clerk

JUDGE'S CERTIFICATE

STATE OF KANSAS,
SEDGWICK COUNTY, } ss.

I, Howard C. Kline, one of the Judges of the 18th Judicial District of the State of Kansas, do hereby certify

that Sedgwick County in the State of Kansas, composes the said 18th Judicial District of said state and that the following attestation and Certificate of Dorothy I. Van Arsdale, in case No. CR-1740 is in due form of law and that the said Dorothy I. Van Arsdale is, and at the time of making said Certificate and attestation was, the Clerk of the said Sedgwick County District Court of said State, and is, and at said time was, the proper officer to make such attestation and the Certificate, and that his signature thereto is genuine, and that as such Clerk he is the sole Custodian of the papers, documents, records and seals pertaining to said Court.

WITNESS, My hand and seal of said Court.

Affixed at Wichita, this 8th day of April, A.D. 1968

Howard C. Kline
One of the Judges 18th Judicial District,
State of Kansas

(SEAL)

DOROTHY I. VAN ARSDALE
Clerk of the
DISTRICT COURT

April 8, 1968

TO WHOM IT MAY CONCERN:

Re: STATE OF KANSAS
vs
EDNA MAE BOOKER
Case No. CR 1740-65

The mandate and syllabus from the Supreme Court of the

State of Kansas was received, filed and spread of record in our office on Monday, January 8, 1968.

Jacquelyn Y. Lewis
Chief Deputy

(SEAL)

SUPREME COURT, } ss.
STATE OF KANSAS, }

Dist. Court No. Cr-1740-65
No. 44,902

The State of Kansas, to the District Court within and for the County of Sedgwick in the State of Kansas, Greeting:

WHEREAS, In a certain criminal, action lately pending before you, wherein State of Kansas was plaintiff and Edna Mae Booker was defendant a judgment was rendered by you against the said defendant from which judgment said defendant prosecuted an appeal in the Supreme Court within and for the State of Kansas;

AND WHEREAS, at the December Session of the July Term of said Supreme Court, A. D. 1967, on consideration of the said appeal it was ordered and adjudged by the said Supreme Court that the judgment of the District Court be Affirmed and that the said plaintiff-appellee recover against the said defendant-appellant $121.80 Dollars for its costs herein expended and have execution therefor.

YOU ARE THEREFORE COMMANDED, That without delay you cause execution to be had of the said

judgment of the Supreme Court, according to law.

Costs of	
Fees of Clerk Supreme Court	Paid
*Counter-Abstract fee of plaintiff-appellee	121.80
*Transcript	
*Other costs	
Total	$121.80

WITNESS my hand and the seal of said Supreme Court affixed hereto, at my office, in the City of Topeka, on the 5th day of January A. D. 1968

(SEAL)

*NOTICE: Pay costs of abstracts and other items, except costs of Clerk of Supreme Court, direct to proper parties.

James R. James
Clerk of the Supreme Court.

No. CR 1740
THE STATE OF KANSAS
vs.
EDNA MAE BOOKER

MANDATE FROM SUPREME COURT

STATE OF KANSAS, } ss.
Sedgwick County, }

Received and filed January 8 1968

DOROTHY I. VAN ARSDALE
Clerk of District Court.
Jacquelyn Y. Lewis
Deputy.

(SEAL)